

**REMARKS**

Claims 1-24 are currently pending in the application. By the amendment, claims 1, 2, 5, 11, 16 and 23 were amended for the Examiner's consideration.

Accordingly, reconsideration and withdrawal of the pending rejections are requested in view of the instant amendments and the accompanying remarks.

***Amendment Fully Supported by the Original Disclosure***

The above amendments do not add new matter to the application and are fully supported by the specification. For example, support for amending claims 1, 11, 16 and 23 is provided at pages 3 (second and last paragraphs), page 4, (third and fourth paragraph), page (second, third and fourth paragraphs), page 8 (fourth and fifth paragraphs), pages 9-12, page 14 (second and third paragraphs), page 15 (second, third and fourth paragraphs), pages 16-18 of the specification. Further, claims 2 and 5 were amended for antecedent issues, and claim 3 was canceled. Applicant respectfully requests reconsideration and timely withdrawal of the pending objections and rejections for the reasons discussed below.

***35 U.S.C. § 112 Rejection, Second Paragraph***

Claims 1-24 were rejected under 35 U.S.C. § 112, second paragraph for being indefinite for failing to particularly point out and distinctly claim the subject matter concerning the list of telephone data, along with other assertions. This rejection is respectfully traversed.

Applicant respectfully submits the list of telephone data between the public telephone data and the private telephone data is clear and definite. Applicant submits that

one skilled in the art upon review of the instant application would know readily understand the differences between the public telephone data and the private telephone data, as recited in the independent claims. The specification clearly defines the public telephone data and the private telephone data, as noted-above (see Amendment Fully Supported by the Original Disclosure section).

However, in order to expedite prosecution of the present application, Applicants have amended independent claims 1, 11, 16 and 23 to even more clearly define the features of the instant invention.

Accordingly, in view of the above amendment, the Examiner's rejection is moot. Applicant asserts that the 35 U.S.C. § 112, second paragraph rejection of claims 1-2 and 4-24 has been overcome and request withdrawal of the same.

### ***35 U.S.C. § 103(a) Rejections***

#### **Over IRVIN**

Claims 1-5, 11-12, 16, 18 and 23-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,195,568 issued to IRVIN. This rejection is respectfully traversed.

The Examiner asserts that IRVIN shows all the features of the claimed invention except explicitly mentioning private telephone data. Applicant traverses the Examiner's assertions.

Applicants' amended independent claim 1 recites in pertinent part:

"...storing telephone data related to at least one of incoming and outgoing telephone calls in at least one of a public call and private call list, the public call list being accessible to any user during operation of the telephone; and limiting a user's access to the public telephone data in the public call

list, until such time as the user of the telephone inputs a personal secret access code, after which, the user has access to the public telephone data in the public call list and to private telephone data in the private call list of private telephone data that is associated with the inputted personal secret access code,..."

Applicants' amended independent claim 11 recites in pertinent part:

"...a public list containing public telephone data is accessible to all users during operation of the telephone;

a personal secret access code entry device that enables a user of the telephone to enter a personal secret access code,

wherein access to said stored telephone data is limited to said public list containing public telephone data, until such time as the user enters said personal secret access code, and after entering the personal secret access code, the user has access to said public telephone data contained in said public list and to a private list containing private telephone data that is associated with said inputted personal secret access code,..."

Applicants' amended independent claim 16 recites in pertinent part:

"...creating a private list containing telephone data associated with the personal secret access code entered by the user, the telephone data, composed of information related to incoming and outgoing telephone calls, collected and accessible only after entry of the associated personal secret access code; and

creating a public list accessible to all users during operation of the telephone which contains telephone data, composed of incoming and outgoing telephone calls, collected and accessible prior to entering the personal secret access code,..."

Applicants' amended independent claim 23 recites in pertinent part:

"...storing in the telephone, for each of the plurality of users, private telephone data related to at least one of incoming and outgoing telephone calls in a respective private list, wherein each respective private list is associated with a personal secret access code;

allowing each of the plurality of users access to the public type of telephone data;

preventing each of the plurality of users from accessing any of the private telephone data until a valid personal secret access code is entered;

allowing the user entering the valid personal secret access code to access the private telephone data associated with the valid personal secret access code; and..."

Applicant submits that IRVIN cannot render obvious the above-noted features of independent claims 1, 11, 16 and 23.

As acknowledged by the Examiner, IRVIN does not show all of the features of the claimed invention. In particular, as IRVIN discloses a communication device having a reference signature (84) associated with two items, first the identity of a distinct and particular user, and secondly an operational profile (94) tailored to the preferences of that particular user (see Col. 5, lines 9-52), this document fails to disclose or suggest *access to said stored telephone data is limited to said public list containing public telephone data, until such time as the user enters said personal secret access code, and after entering the personal secret access code, the user has access to said public telephone data contained in said public list and to a private list containing private telephone data that is associated with said inputted personal secret access code*, as at least recited in the independent claims (in terms of claim 1). Contrary to the present instant invention, a signature is associated with each user, once the identity is established (inputting the reference signature), the telephone adapts its operational characteristics according to the stored settings associated with the user identity (see Col. 3, lines 35-40). Moreover, normal operation of the telephone is locked-out (see Figure 3 and box 110) to all users, and to gain operational access to the telephone a prospective user enters a reference signature (box 120, see also Figure 4) (see Col. 5, lines 42-59).

However, contrary to the Examiner's assertions, Applicant submits that there is no teaching or suggestion of stored public data being accessible by any or all users before entering a personal secret access code, or stored private data and stored public data being accessible to a user after entering a personal secret access code. Further, IRVIN

addresses the operation of the telephone for each user in a completely different way than the instant invention, i.e., the reference signature of IRVIN is used to gain access to the telephone, and associated services.

Further, as the art of record fails to teach or suggest providing users access to public stored data, and to both public telephone data and private telephone data associated with an entered personal secret access code, Applicant submits that the art of record fails to teach or suggest the combination of features recited in at least the independent claims.

Further, as the art of record fails to provide any teaching or suggestion that it would have been obvious to provide the above-noted features of the instant invention, Applicant submits that the asserted rejection is improper.

Therefore, Applicant respectfully submits it would not have been obvious to modify the teachings of IRVIN to that of the features of the instant invention.

A § 103 rejection requires the Examiner to first establish a *prima facie* case of obviousness: "The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the Examiner does not produce a prima facie case, the Applicant is under no obligation to submit evidence of nonobviousness." MPEP 2142. The Court of Appeals for the Federal Circuit has set forth three elements, which must be shown for prima facie obviousness:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teachings or suggestion to make the claimed combination and the reasonable expectation of success must

both be found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

As discussed above, IRVIN requires the user to enter a reference signature to gain access to the telephone, which is comparable to accessing a telephone network that provides stored operational settings associated with the user identity. Moreover, there is no teaching or suggestion in IRVIN that a user can access to public stored data without before a reference signature, nor that stored private data and stored public data are both accessible after entering a personal secret access code. Therefore, Applicant submits that it would not have been obvious to modify IRVIN in such a way to render the instant invention unpatentable, nor is there any suggestion in the art of record that even if obvious (which Applicant submits it is not) IRVIN be modified in the manner asserted by the Examiner would to operate in its intended manner.

Thus, Applicant submits that the art record fails to disclose the requisite motivation or rationale for modifying IRVIN in the manner asserted by the Examiner.

For these reasons, Applicant respectfully submits that independent claims 1, 11, 16 and 23 are allowable over IRVIN or any proper combination of the prior art of record. Claims 2-10, 12-15, 17-22 and 24 are also allowable over IRVIN because of their dependency from an allowable base. Withdrawal of the rejection of claims 1-24 is respectfully requested.

Over IRVIN in view of AUSTIN

Claims 6-10, 13-15, 17 and 19-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over IRVIN in view of U.S. Patent No. 6,259,908 issued to AUSTIN. This rejection is respectfully traversed.

The Examiner asserts that IRVIN shows all the features of the claimed invention except for the first and second modes, and it would have been obvious to one of ordinary skill in the art to replace one well known security feature with another. Applicant respectfully disagrees with the Examiner's assertions.

The combination of references fails to show the subject matter as noted above as deficient in IRVIN alone. AUSTIN shows a method of limiting access to data of a telephone by defining in the telephone a subsidy lock code for use in activating the phone on a designated cellular network. There is no teaching or suggestion in AUSTIN for any or all users gaining access to public stored data, as recited in the independent claims. Moreover, there no showing in AUSTIN of the aspect of private stored data and stored public data being accessible via a personal secret access code, as at least recited in the independent claims.

Moreover, the method of limiting access to data of the telephone of AUSTIN would appear to teach away from the instant invention, since AUSTIN is concerned with designated cellular networks, as opposed the above-noted features of the instant invention. There is absolutely no motivation to make such an argument in view of the divergent arts. If anything, Applicants submit the Examiner is using impermissible hindsight based on Applicants disclosure.

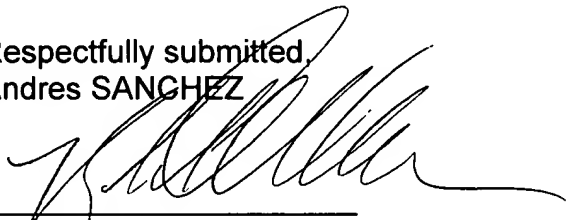
Accordingly, Applicants request that the Examiner reconsider and withdraw the rejections of claims 6-10, 13-15, 17 AND 19-22 under § 35 U.S.C. 103(a) and indicate that these claims (and all independent claims 1, 11, 16 and 23) are allowable.

**CONCLUSION**

In view of the foregoing amendments and remarks, Applicant submits that all of the rejections have been overcome, and that the claims are patentably distinct from the prior art of record and in condition for allowance. The Examiner is respectfully requested to pass the above application to issue, and to contact the undersigned at the telephone number listed below, if needed.

Should the Examiner have any questions or comments, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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